

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EARNEST S. HARRIS,

Petitioner,

No. CIV S-04-1906 GEB CKD P

vs.

BILL LOCKYER,

Respondent.

ORDER

\_\_\_\_\_/

Petitioner, a state prisoner currently proceeding pro se, sought habeas corpus relief pursuant to 42 U.S.C. 2254. Final judgment was entered in respondent's favor and this case closed on September 24, 2007. Petitioner unsuccessfully appealed to the United States Court of Appeals for the Ninth Circuit. Following his unsuccessful appeal, on April 19, 2012, petitioner filed a motion in this court entitled "motion to amend." On August 15, 2012, the magistrate judge filed findings and recommendations construing the motion as a motion for relief from judgment under Federal Rule of Civil Procedure 60(b) and recommending that the motion be denied.

A district court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). "Reconsideration is appropriate if the district court (1) is

1 presented with newly discovered evidence, (2) committed clear error or the initial decision was  
2 manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule  
4 304, this court has conducted a de novo review of the matter. Upon review, the court finds the  
5 findings and recommendations to be supported by the record and by proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The findings and recommendations at Docket 65, are adopted in full; and  
8 2. Plaintiff’s Motion to Amend at Docket 64 is DENIED.

9 Dated: September 28, 2012

10  
11   
12 GARLAND E. BURRELL, JR.  
13 Senior United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26